# The Enforcement of a Minimum Wage Law as a Form of Collective Bargaining

By Jesse C. Adkins
Member, Minimum Wage Board, District of Columbia

A MINIMUM wage law properly administered really results in a bargain between the employer and the employee and, the most important class of all, the public.

The right to a living wage, that is, a wage sufficiently large to give the workers reasonable food, clothing and shelter, is universally admitted today. It has been preached for a long time. There was a time when the employer was justified in paying any wage so long as it was the going wage. If it were $3.00 a week, and everybody else was paying $3.00 a week, he was justified in not paying any more, but when the matter is brought to his attention and he realizes that no human being can live on $3.00 a week or $6.00 or $8.00 or $10.00, or whatever it is, he is no longer justified in paying so small a wage.

## The Minimum Wage Law in the District of Columbia

The statute in force in the District of Columbia, in its concluding section, contains this statement of principle: "The purposes of the Act are to protect the women and minors of the District of Columbia from conditions detrimental to their health or morals, resulting from wages that are inadequate to maintain decent standards of living." I think any employer who reads that statement, or any consumer, will readily agree that he does not want to be a party to employing any woman or child at a wage which will not be sufficient to enable the employee to live decently.

Beginning in 1896, in Victoria, in a temporary statute to protect the workers in certain sweated industries, the minimum wage law soon became permanent there and extended throughout Australasia to England, Canada and even to the United States. The first act in our country was adopted in conservative Massachusetts in 1912. Since that time it has been adopted in thirteen other states and in the District of Columbia—practically one-fourth of the country. It is rather remarkable that, except for Massachusetts and the District of Columbia, the other states are located in the west—all of them on the other side of the Mississippi River.

The statute adopted in the District of Columbia during the war is patterned after the Oregon statute which had recently been sustained by the Supreme Court of the United States—true, by an equally divided court. It is typical of all of the minimum wage laws. In the first place, there is a board consisting of three members, one member representing each of these three parties to every bargain that is made today: the employer, the employee, and most important of all, the public, the man who pays the bill. That board administers the law. The statute does not itself extend, it is not self-extensive, to any particular occupation. Certain inquiries must be made and certain things done to bring any industry within its terms.

In the first place, it was necessary to find out what it would cost a woman or child to live, with due regard to her

health and morals, in the District of Columbia. In the District we called upon Dr. Royal Meeker, the Chief of the Bureau of Labor Statistics of the Department of Labor, to find out generally what it did cost a girl to live in the District of Columbia, and very quickly he reported that roughly the figure of $16.00 might be taken. Thereupon, the board proceeded to make an inquiry into various occupations. Wherever it found that a substantial number of women in any industry was receiving less than this $16.00, it became the mandatory duty of the board to call a conference for the purpose of correcting the difficulty. That conference really does the work. While there is more or less compulsion back of this statute, whoever drafted it devised a process which really results in bringing the employers and employees together and causing them to reach a bargain. True, there may be some force behind that bargain; they are compelled to reach it, but after all it is usually a bargain.

This conference, then, is composed of an equal number of representatives from each of the three classes, and we have hit upon the number of three. At least one member of the board must sit at every conference, so that our conferences are composed of ten, eleven or twelve—we have tried all three figures. That conference takes whatever evidence has already been collected with reference to that particular industry as to the cost of living, and then goes ahead on its own account. It takes whatever evidence it wants. It has the power to issue subpoenas, and bring in witnesses, to examine the books of merchants, etc. Finally the conference reaches the figure which it thinks, or the majority thinks, is the actual cost of living in the District of Columbia. That figure then is reported back to the board. The board from that time on has a very limited power of veto, but no power whatever to change that figure. If it approves the figure it then fixes a day four weeks off for a public hearing, which is duly advertised, and everybody is invited to come in and speak for or against the figure. If the board still approves the figure, it makes an appropriate order, and that figure becomes the minimum wage for the girl or woman in that particular occupation and becomes effective sixty days after the order is made. If the figure is not satisfactory to the board it may appoint a new conference or send the matter back to the same conference and ask for a new report.

Legally this is compulsory. In practice we have tried to eliminate the compulsory feature and work it out as an agreement—get the parties together. The members of the public have really acted more as mediators than arbitrators. It is true that they have the power of arbitrators and are, therefore, much more effective as mediators than they otherwise would be, because each side knows that unless he tries to get together with the public he is likely to have the public side with the other party.

Now, while we may say roughly that $16.00 is the cost of living, it is not mathematically accurate. No human being can say that $16.50 or $15.50 or even $17.00 is not just as near the cost. So within limits the effort is made to agree, and we have always figured that an agreement by all the parties was worth at least 50 cents as to the wage.

## THE MINIMUM WAGE IN PRACTICE

The District has been exceedingly fortunate in its experience with reference to this law. In the first place, the employers themselves, when the bill was pending before congress, joined in the request that it be passed. They said they liked that form of arbitration.

In the next place, the president of the Merchants' and Manufacturers' Association, which is the principal organization of that kind in the District—there being few manufacturing interests in the District—was a member of the board. He was broadminded and fair, had the confidence of all sides, and was a tower of strength. As might be expected from their attitude at that time, the merchants, as well as the entire employer class, have been equally helpful in the enforcement of the statute, and have coöperated in every way with the board.

We were equally fortunate in our first conference. We were able to persuade one of the judges of the supreme court of the District to preside. We were also able to get, as representatives of the public, Dr. John A. Ryan, who knows more about the minimum wage law than any other person living, and also Mrs. Frances Axtell, who had been a member of a minimum wage board in the west and who was at that time in Washington. We were, therefore, able to get sane and sensible people with our first conference, and they were able without very much difficulty to bring about an entire agreement between employers and employees. These conferences result in a very much better feeling between employers and employees. Each sees the other's side and comes to respect it; for example, after our conference in the mercantile industry, one of the employers offered employment to one of the representatives of the employees. He had been so impressed by her work there that he wanted her to work in his store.

It has not been necessary in the District for all of the employees to wait until the board in its rather deliberate procedure could reach their industry. In a number of cases the employer has adopted the minimum wage as soon as he learned what the figure was. For example, one large publisher, the moment the figure of $16.00 was announced and before conference as to any industry raised all of his wages to that point. The telephone company, employing over 1,200 girls, has recently raised all of its wages to that point. A small manufacturer coming from another city to Washington visited the board in the first instance and asked what the minimum wage was, and he proceeded to adopt it in his factory.

We have had even gentlemen's agreements with our employers; for example, in the mercantile industry it was thought advisable to limit the number of learners and minors to be employed in the stores. In the printing industry there had been a limit in the order of one in five. The merchants said they were perfectly willing to obey that proportion, but if we made a formal rule it meant in the large stores employing one or two additional clerks to do nothing but keep track of that feature, so they said, "If you will not make the order we will live up to it anyway." The five and ten cent stores did not belong to their organization, and in other jurisdictions there had been more or less trouble with the five and ten cent stores. They said in these other jurisdictions, "We don't need clerks, really. Our goods sell themselves and why should we pay so much money to a girl who does nothing more than wrap up goods and take the money?" We made that agreement with the merchants and they have lived up to it, not only those who belong to their organization but the five and ten cent stores also have done the same thing, and in Washington they have finally come to be strong adherents of this law. Before the law went into effect in the department stores the percentage of learners and minors was about 25. Within a short time it decreased to 18. The five and

ten cent stores had a percentage as high as 43, but it has decreased with them to 25, and they are quite enthusiastic about the law. For example, one of them said that during the Christmas holidays of last year, after the law was effective, the actual labor cost was no greater than it was in the preceding year—the girls were that much more effective.

### PROSECUTIONS UNNECESSARY

We have not had a single prosecution for the violation of this statute. The penalty is not very great, but even today very few people like to be prosecuted for violating the law. We are very fortunate in the secretary and assistant secretary that we have. They really do the work. They go out and look over the payrolls in the store and if they find that the proprietor is violating the law they call his attention to it, and so far they have been able to persuade him to correct the mistake; usually it has been a mistake. The employer wants to obey the law; for example, recently we discovered in a candy factory that the employer thought the wage applied only to the sales girls and not to the makers of candy. His attention was called to the fact that it covered all of them and he has agreed to make up some $500 in back pay. One girl in a period of a few months is going to get something over $200.

We had another illustration of the willingness of the employers to do everything they could to help us. In the conference concerning wages in the hotels one of the representatives was a colored girl, employed in one of our hotels, and while the conference was on she was discharged. Under the statute if that discharge was because of her service on the conference the employer had violated the law and was subject to a small fine. We did not want to start a prosecution. We were much more concerned in having his coöperation. So we finally had the girl and the employer come down before the board, and it very soon developed that the cause for the discharge was something else. The fact that the girl served on the conference may have indirectly led up to it, because she learned something more about her rights and, perhaps, was more assertive than she would have been otherwise, but I think the real difficulty came over the question of stew. I understand that is constantly a point of discussion between the girls who are employed in the hotels and proprietors of the hotels—how much stew and how often they shall have it. While we saw that the statute had not been violated, we suggested to the employer that it would be impossible for him or us to convince other girls in other industries that it was safe for them to serve on conferences if one girl had been discharged, even for a reasonable cause, and as soon as he saw that he said, "Very well, I am perfectly willing to take her back." However, she did not want to return. She said she had never been discharged before and now that she was vindicated and the law was vindicated she was content to get a place elsewhere.

Briefly, I have simply tried to show that so far as we are concerned, while the statute may result in compulsory arbitration, it may be administered, and we have tried to administer it so that it results in collective bargaining. Colonel Walter Dill Scott recently remarked that in order to promote industrial stability it was necessary to stimulate the worker to the utmost production. Now, I ask how can a worker give the utmost production unless he gets enough to eat and to wear and comfortable shelter?